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7 Attorneys for Debtor
Tripath Technology, Inc.

9 UNITED STATES BANKRUPTCY COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

13 In re
14 TRIPATH TECHNOLOGY, INC.,
15 Debtor.

CASE NO. 07-50358 MM
Chapter 11

16 **DEBTOR'S EMERGENCY EX PARTE APPLICATION FOR ORDER**
17 **PURSUANT TO 11 U.S.C. § 105(a) AUTHORIZING GARY M. SAWKA**
18 **TO OPEN BANK ACCOUNTS AND SIGN CHECKS ON BEHALF OF TRIPATH**
19 **TECHNOLOGY, INC.**

20 **RELIEF REQUESTED**

21 Tripath Technology, Inc. ("Tripath" or "Debtor") hereby moves this Court pursuant to
22 11 U.S.C. § 105(a) for an Order authorizing Gary M. Sawka, the interim CFO of the Debtor, to
23 open new bank accounts and to sign checks, execute wire transfers, endorse deposits and any
24 other manner of authority normally exercised by an authorized signatory in the ordinary course of
25 business with respect to Debtor's DIP bank accounts. In support of this motion, Debtor represents
26 as follows:
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1 1. Tripath filed a voluntary chapter 11 petition on February 8, 2007 and remains as
2 debtor and debtor in possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code. No
3 trustee has been requested or appointed in this case.

4 2. Mr. Sawka has served as Tripath's temporary interim CFO since August 2006, but
5 in that capacity he was not named as an authorized signatory on the debtor's bank accounts.
6 Primary signing authority on all Tripath's bank accounts was held by Dr. Adya Tripathi, Tripath's
7 founder, Chairman and CEO.

8 3. On February 12, 2007, Dr. Tripathi announced his intention to resign as Chairman
9 and CEO of Tripath, effective at close of business that same day.

10 4. Due to disruption and turnover in the corporation in the months leading up to the
11 Petition Date, the office of Corporate Secretary has apparently been vacated and no new Secretary
12 was appointed.

13 5. Contemporaneously with the motion, the Debtor is filing a motion to designate
14 Mr. Sawka as the "Responsible Person" for the Debtor pursuant to Local Rule 4002-1. A copy of
15 Mr. Sawka's resume is attached hereto as Exhibit A.

16 6. In the course of opening a new Debtor In Possession ("DIP") bank account, it has
17 come to the attention of Mr. Sawka that there is no efficient and effective method of the Debtor
18 designating Mr. Sawka – or any other individual – as authorized to open new bank accounts or to
19 sign checks and other documents with respect to such accounts.

20 7. On February 13, 2007, the Court heard several "first day" motions, including
21 motions for authorization to use cash collateral (the "Cash Collateral Motion") and to pay certain
22 pre-petition wages and benefits on an interim basis pending final hearing as those obligations
23 come due in the ordinary course (the "Wage Motion"). The Wage Motion and the Interim Cash
24 Collateral Motion were approved and proposed orders submitted on February 13, 2007.

25 8. In order to make the Debtor's next scheduled payroll on February 15, 2007, and
26 prevent the loss of employees, which loss would cause immediate and irreparable harm to the
27 Debtor, the Debtor is in immediate need of an order authorizing Mr. Sawka to open the Debtor's
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1 new DIP checking account and to sign the payroll checks and other expenses provided for in the
2 budget ("Budget") approved with the Interim Cash Collateral Order.

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4 DATED: February 14, 2007

s/ Ed Wes, CA Bar No. 180252

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Tripath Technology, Inc.

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12 In accordance with C.R.C.P. 121 §1-26(9), a duly signed original of this document is on file at the law firm of
13 Perkins Coie LLP and will be made available for inspection by other parties or the court upon request
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EXHIBIT A

Gary M. Sawka
12838 Concepcion Road
Los Altos Hills, CA 94022
Office: 650.947.8553 Cell: 650.996.1515
garysawka@hotmail.com

Fifteen years experience as CFO and Treasurer with multinational, capital intensive and growth companies. Negotiated over 100 financing transactions in public and private markets. Significant CFO experiences with business expansion, mergers and acquisitions, and restructuring. Served as Interim CFO to NASDAQ companies in financial distress reducing cash expenditures, restructuring debt and selling assets. Harvard MBA in Finance.

CAREER HIGHLIGHTS

Financing – Negotiated and closed over 100 financing transactions in public markets, private placements, and individual transactions totaling over \$1 billion including syndicated, secured and sub loans and cross border leases.

IPO - Managed SEC registration process, attorneys and CPAs for IPOs, secondary offerings, and private placement registrations. Designed and administered stock option and executive incentive compensation plans.

Road Shows - Organized and presented at road shows to Wall Street, European and Japanese banks, leasing companies, trading houses, venture capital firms. Hosted bank meetings, rating agency reviews and lenders due diligence sessions. Developed and presented business plans resulting in seed, 1st and 2nd round VC funding.

Board Representation - Board member, corporate secretary and CFO representative to Board of Directors. Developed Board agenda, wrote minutes, and presented analysis of strategic decisions and financial results.

M & A - Prepared acquisition analysis for two major competitor acquisitions and ten other acquisitions, conducted on-site business and financial due diligence, and handled financial integration for the acquisitions.

Investment Decisions - Established investment criteria, risk and return measurement, capital project ranking, deal profitability, credit ratings and guidelines, and competitor pricing and cost analysis.

Financial Systems - Designed and implemented all core financial processes. Reengineered financial and operating departments, reduced staff and working capital, and relocated operating businesses.

Professional Associations - Financial Executives International, National Association of Corporate Treasurers, Harvard Business School Association, and Financial Executives Networking Group.

Education - MBA Finance, Harvard Business School. BS Accounting, USC. NASD Series 7, 24, 27, 63, 65.

PROFESSIONAL EXPERIENCE SUMMARY

Interim CFO and SOX Consulting

2002 to date

Interim CFO for a NASDAQ semiconductor company after the departure of its CFO and Controller. Assumed control of the Company's cash flow and financial management during a period of financial distress. Worked with senior management to negotiate the sale of the Company. Worked with the acquiring company to structure an equity recapitalization and negotiate settlement agreements with debtors and vendors. Other Interim CFO Consultant assignments included preparing business plans and financial models, setting up financial processes and controls and financial reporting systems, providing forensic accounting services, and conducting due diligence for acquisitions.

SOX Engagement Manager and Consultant for ten NASDAQ companies developing business narratives, control matrixes, flow charts, and test plans. Prepared issues / gap analysis, tested and remediated controls Wrote COSO Compliance Manual and Entity-Level Cycle control matrixes.

ePlanning Securities, Inc., San Francisco, California

2000 - 2001

Executive Vice President and Chief Financial Officer

Financial services company providing technology and brokerage services for the independent financial planner. Responsible for finance and corporate legal functions. Structured preferred stock, bridge loan, and stock option plans. Negotiated with vendors to stretch payments terms during downsizing after collapse of institutional funding.

TVIA, Inc., Santa Clara, California

1999 - 2000

Vice President and Chief Financial Officer

NASDAQ digital media infrastructure company making streaming media chips for Internet appliances and digital STBs. Responsible for coordinating financial and business due diligence for IPO Registration Statement, investment bankers, and CPAs. Extended bank working capital facility, coordinated preferred stock investments, option grants. Managed accounting department and contractors hired for audit and IPO.

PRIMESOURCE Corporation, Burlingame, California

1991 - 1998

Executive Vice President and Chief Financial Officer

Co-Founder of PrimeSource Corporation, an established international leasing company in the high service market (\$150 million assets, \$25 million revenue). Senior financial executive responsible for CFO functions in addition to Administration, HR, MIS and Legal Affairs. Company merged with competitor for economies of scale in 1998.

- Structured and negotiated \$150 million in seed, 1st and 2nd round venture capital, subordinated debt and senior debt from European, U.S., and Asian financial institutions. Designed securitized structures to reduce borrowing costs.
- Initiated and managed contacts with investors, lenders, lawyers, and accountants. Permanent Board member. Developed Board agenda and presented analysis of strategic decisions and financial results.
- Designed all core financial processes including annual planning and forecasting, budgeting, cash management, treasury, foreign exchange, tax, banking and long-range investment planning.
- Implemented PC-based financial reporting & forecasting systems. Evaluated IT requirements and spearheaded development and implementation of a dynamic computer model to analyze historical results and test predictive actions.
- Designed the legal structures for twenty international subsidiaries, developed worldwide HR policies and employee benefit programs, risk and credit management policies, and managed the pension fund assets.

ITEL Corporation, San Francisco, California

1974 - 1991

Chief Financial Officer (Itel Containers International Corporation)

1985 - 1991

Senior financial executive responsible for planning, staffing, operating performance and leadership of fifty person staff in treasury, tax, credit risk management, strategic planning, financial planning and analysis, budgeting and accounting. During six-year tenure, the company tripled in size to \$300 million in revenue and \$700 million in assets to become the world's largest container lessor. Company sold to major competitor at \$300 million gain.

- Conducted road show presentations, hosted bank meetings, rating agency reviews and due diligence sessions for several expansions of the revolving credit facility. The culmination was a sixteen-member, \$500 million bank group on three continents that permitted carve-outs for sophisticated financing deals, such as double dip depreciation.
- Structured and negotiated \$300 million of sophisticated equipment financing with U.S., European and Asian financial institutions including - cross border leases, sale & leaseback, term debt, receivable securitization, export and vendor financing, letters of credit, and a mini revolver.
- Prepared detailed business profiles of two major competitors, demonstrating \$20 million savings in overhead. Conducted on-site due diligence that culminated in the acquisition of Flexi-Van's \$280 million container fleet and Xtra's \$100 million container fleet. Handled financial integration for the acquisitions.
- Led a systematic evaluation of core financial functions and systems to accommodate the business growth including recruiting and training international staff in treasury, tax, and credit risk management.
- Established credit ratings and guidelines for customers and developed an asset exposure profile to manage customer risk portfolio resulting in the lowest receivable write-off in the industry.

Vice President, Strategic Planning**1984 - 1985**

Created the strategic planning department, established investment criteria, risk and return measurement, capital project ranking, and long-range planning.

- Developed customized econometric and trade forecasting to improve the accuracy and quality of the planning process, understand global logistics, and reduce the level of inventory.
- Designed and implemented comprehensive databases to understand customers cost structure and competitors pricing, creating a basis for profitable, high service leases.

Controller**1983 - 1984**

Provided "hands-on" direction of worldwide accounting, budgeting, internal audit, and financial planning and analysis for \$100 million lessor during Chapter 11 bankruptcy and transition to reorganized company. Increased cash flow through cost and working capital reductions with 20% decrease in personnel.

Director of Planning**1981 - 1983**

Managed group responsible for budget preparation and monthly financial analysis for \$100 million lessor. Identified sophisticated cyclical, seasonality, and deal profitability factors to establish the most profitable negotiation strategy for high service customers.

Director of Navigation Operations (ITEL Navigation, Inc.)**1979 - 1981**

Responsible for operational management, purchase and sale, and chartering for a \$250 million fleet of twelve international cargo ships. Reengineered operations and reduced staff by relocating from New York to San Francisco. Operated the business profitability for two years. Conducted sale of the ships at \$25 million gain.

Director of Financial Analysis (ITEL Transportation Services)**1978 - 1979**

Provided business strategy and financial guidance for the \$500 million container, railcar and ship leasing businesses. Developed financial evaluation techniques for \$250 million of ocean going ship purchases.

Manager of External Reporting (ITEL Corporation)**1974 - 1978**

Responsible for SEC filings including \$500 million of public debt and equity, private debt placements, and stock acquisitions of three public data service companies; annual and quarterly reporting on SEC Form 10-K and 10-Q.

Monsanto Company, St. Louis, Missouri**1970 - 1974**

Senior Corporate Financial Analyst, Corporate Finance
Financial Analyst, New Enterprise Division

1972 - 1974
1970 - 1972

EDUCATION**MBA Harvard Graduate School of Business Administration, 1970.**

Finance Major. Awarded full-tuition fellowship.

BS University of Southern California, 1968.

Accounting Major. Awarded full-tuition scholarship. Graduate first in Business class of 550.

Passed CPA exam. Worked as auditor for Big Four accounting firms in Los Angeles.

NASD Securities Licenses

Series 7 - General Securities Representative, **Series 24** - General Securities Principal

Series 27 - Financial and Operations Principal, **Series 63** - Uniform Securities Agent Law

Series 65 - Uniform Investment Advisor Law, **California Life Agent License**

NACBP - Certified Bank Securities and Insurance Consultant,

CTEC - California Tax Education Council License